

AN ACT to amend Tennessee Code Annotated, Title 10, Chapter 7 and Title 55, relative to the use of government records for commercial and other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 55, is amended by adding Sections 2 through 13 of this act as a new chapter.

SECTION 2. The purpose of this act is to implement the federal Drivers' Privacy Protection Act of 1994 ("DPPA") (Title XXX of Public Law 103-322) in order to protect the interest of individuals in their personal privacy of prohibiting the disclosure and use of personal information contained in their motor vehicle records, except as authorized by such individuals or by law.

SECTION 3.

(a) "Department" means the department of safety, the department of revenue and the county clerk's office when acting as an agent of such departments, or the duly authorized agents or contractors thereof, responsible to compile and maintain motor vehicle records.

(b) "Disclose" means to engage in any practice or conduct to make available and make known personal information contained in a motor vehicle record about a person to any person, organization or entity, by any means of communication.

(c) "Individual record" is a motor vehicle record containing personal information about a designated person who is the subject of the record as identified in a request.

(d) "Motor vehicle record" means any records that pertain to a motor vehicle operator's or driver's license or permit, motor vehicle registration, motor vehicle title, or identification document issued by a department of motor vehicles, or other state or local agency authorized to issue any of such forms of credentials.

(e) "Person" means an individual, organization or entity, but does not include this state or an agency thereof.

(f) "Personal information" means information that identifies a person, including an individual's photograph, or computerized image, social security number, driver identification number, name, address (but not the five-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving or equipment-related violations, and driver's license or registration status.

(g) "Record" includes all books, papers, photographs, photostats, cards, films, tapes, recordings, electronic data, printouts or other documentary materials regardless of physical form or characteristics.

SECTION 4. Notwithstanding any other provision of law to the contrary, except as provided in Sections 5 to 8, inclusive, the department, and any officer, employee, agent or contractor thereof shall not disclose personal information about any person obtained by the department in connection with a motor vehicle record.

SECTION 5. Personal information referred to in Section 4 shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of non-owner records from the original owner records of motor vehicle manufacturers to carry out the purposes of the Federal Automobile Information Disclosure Act, 15 USC 1231 et seq., The Motor Vehicle Information and Cost Savings Act, 15 USC 1901 et seq., The National Traffic and Motor Vehicle

Safety Act of 1966, 15 USC 1381 et seq., the Anti-Car Theft Act of 1992, 15 USC 2021 et seq., and the Clean Air Act, 42 USC 7401 et seq., as amended, and all statutes and agency regulations enacted or adopted pursuant to the authority of, or to attain compliance with, the said Acts of Congress.

SECTION 6. Personal information referred to in Section 4 may be disclosed to any requesting person, if such person demonstrates, in such form and manner as the department prescribes, that he has obtained the written consent of the person who is the subject of the information.

SECTION 7. Personal information referred to in Section 4 shall be disclosed to any person by the department, its officers, employees or contractors, or upon proof of the identity of the person requesting a record or records and representation by such person that the use of the personal information will be strictly limited to one (1) or more of the following uses:

(a) for use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a government agency in carrying out its functions;

(b) for use in connection of matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; and removal of non-owner records from the original owner records of motor vehicle manufacturers;

(c) for use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only:

(1) to verify the accuracy of personal information submitted by individual to the business or its agents, employees, or contractors; and

(2) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing

fraud, by pursuing legal remedies against, or recovering on a debt or security interest against, the individual;

(d) for use in connection with any civil, criminal, administrative, or arbitral proceeding in any court or government agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of any court;

(e) For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals;

(f) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, anti-fraud activities, rating or underwriting;

(g) For use in providing notice to the owners of towed or impounded vehicles;

(h) For use by any licensed private investigative agency or licensed security service for any purpose permitted under this section;

(i) For use by any employer or its agent or insurer to obtain or verify information relating to a holder of commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 USC App. 2210 et seq.);

(j) for bulk distribution for surveys, marketing or solicitations after the department has implemented methods and procedures to ensure that:

(1) persons are provided an opportunity, in a clear and conspicuous manner, to prohibit such uses, and

(2) the information will be used, rented, or sold solely for bulk distribution for surveys, marketing, and solicitations, and that surveys, marketing, and solicitations will not be directed at those individuals who have requested in a timely fashion that such material not be directed at them; and

(j) For any other use specifically authorized by law that is related to the operation motor vehicle or public safety.

SECTION 8. Personal information referred to in Section 4 that is contained in an individual record may be disclosed to any requesting person, without regard to intended use, if the department has provided in a clear and conspicuous manner on forms for issuance or renewal of operator or driver licenses, registrations, titles, or identification documents, notice that personal information collected by the department may be disclosed to any person making a request for an individual record, and has provided in a clear and conspicuous manner on such forms an opportunity for each person who is the subject of a record to prohibit such disclosure.

SECTION 9. The department may, prior to disclosure of personal information as permitted under Sections 5 to 8, inclusive, require the meeting of conditions by requesting the person for the purposes of obtaining reasonable assurance concerning the identity of such requesting person, and, to the extent required, that the use will be only as authorized, or the consent of the person which is the subject of the information has been obtained. Such conditions may include, but need not be limited to, the making and filing of written application in such form and containing such information and certification requirements as the department may prescribe.

SECTION 10.

(a) An authorized recipient of personal information, except a recipient under subsection (j) of Section 7 or under Section 8, may resell or redisclose the information for any use permitted under Section 7 (but not including the use for bulk distribution for surveys, marketing or solicitations as set forth in subsection (j) of Section 7).

(b) An authorized recipient of an individual record or records under Section 8 may resell or redisclose personal information for any purpose.

(c) An authorized recipient of personal information for bulk distribution of surveys, marketing or solicitations, under subsection (j) of Section 7, may resell or redisclose

personal information only in accordance with the terms of the said subsection concerning the right of individuals, who have so requested in a timely manner, not to have such surveys, marketing or solicitations directed at them.

(d) Any authorized recipient, except a recipient of an individual record or records under Section 8, who resells or rediscloses personal information shall be required by the department to (1) maintain for a period of not less than five (5) years records as to the information obtained, and the permitted use for which it was obtained, and (2) to make such records available for inspection by the department, upon request.

SECTION 11. The department is authorized to adopt administrative regulations to carry out the purposes of this act. The regulations may include procedures under which the department, upon receiving a request for personal information that is not subject to disclosure in accordance with the exception provisions of Sections 5 to 8, inclusive, may mail a copy of such request to each individual who is the subject of the information, informing each such individual of the request, together with a statement to the effect that disclosure is prohibited and will not be made unless the individual affirmatively elects to waive such individual's right to privacy under this act.

SECTION 12. Any person requesting the disclosure of personal information from department records who misrepresents his identity or makes a false statement to the department on any application required to be submitted pursuant to this act shall be guilty of a Class C misdemeanor, punishable only by a fine not to exceed one thousand dollars (\$1,000).

SECTION 13. This act shall be known and cited as the "Uniform Motor Vehicle Records Disclosure Act."

SECTION 14. Tennessee Code Annotated, Section 55-2-105(b), is amended by inserting the language "and authorized to be released by Sections 2 through 13 of this act" immediately following the word "title" in the first sentence.

SECTION 15. Tennessee Code Annotated, Section 55-2-106, is amended by deleting the section in its entirety and by substituting instead the following:

The commissioner of safety, the commissioner of revenue and the county clerk are authorized to charge a reasonable fee for such services not to exceed one dollar (\$1.00) for each person or vehicle on which such information is requested.

SECTION 16. Tennessee Code Annotated, Section 10-7-504(a), is amended by adding the following new item:

() Personal information contained in motor vehicle records shall be treated as confidential and shall only be open for inspection in accordance with the provisions of this act.

SECTION 17. This act shall take effect July 1, 1997, the public welfare requiring it.